



STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
Albany, NY 12211

Notice of Decision

Decision Date: August 23, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000017615

[REDACTED]

Dear [REDACTED],

On July 18, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's March 21, 2017 eligibility determination notice.

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of NY State of Health.

If you have questions about your Decision, you can contact us by:

- Calling the Customer Service Center at 1-855-355-5777
- Sending Mail to:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- Sending a Fax to 1-855-900-5557

When contacting NY State of Health about your appeal and/or the Decision, please refer to the Appeal Identification number and the Account ID at the top of this notice.

Legal Authority

We are sending you this notice in accordance with 45 Code of Federal Regulations (CFR) § 155.545.

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY - Spanish: 1-877-662-4886).

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STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
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Decision

Decision Date: August 23, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000017615



Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did NY State of Health (NYSOH) properly determine that you and your spouse's eligibility for advance payments of the premium tax credit ended effective May 1, 2017?

Procedural History

On December 15, 2016, NYSOH issued an eligibility determination notice stating that you and your spouse were conditionally eligible to receive up to \$485.00 in advance payments of the premium tax credit (APTC), effective January 1, 2017. The notice directed you to provide documentation confirming your household income before March 14, 2017.

Also on December 15, 2016, NYSOH issued a plan enrollment notice confirming your and your spouse's enrollment in platinum-level qualified health plan (QHP), with a start date and \$485.00 in APTC applied to your monthly premium, effective January 1, 2017.

No proof of income documentation was provided by March 14, 2017.

On March 20, 2017, NYSOH redetermined your and your spouse's eligibility.

On March 21, 2017, NYSOH issued an eligibility determination notice stating that you and your spouse were newly eligible to purchase a QHP at full cost. The notice stated that neither you nor your spouse were eligible to receive APTC or

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cost-sharing reductions because NYSOH did not receive the income documentation needed to verify the household income listed in your application. This eligibility was effective May 1, 2017.

Also on March 21, 2017, NYSOH issued a plan enrollment notice confirming that you and your spouse were enrolled in a full cost platinum-level QHP with an enrollment start date of January 1, 2017.

On April 3, 2017, you spoke to NYSOH's Account Review Unit and appealed the termination of your and your spouse's APTC and that the health plan was charging you the full cost of your monthly premiums from January 1, 2017.

On April 5, 2017, you updated your application for financial assistance.

On April 6, 2017, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible to receive up to \$485.00 in APTC for a limited time, effective May 1, 2017. The notice directed you to provide documentation confirming your household income before July 4, 2017.

Also on April 6, 2017, NYSOH issued a plan enrollment notice confirming your and your spouse's enrollment in a platinum-level QHP with a start date of January 1, 2017 and \$485.00 in APTC applied to your monthly premium starting May 1, 2017.

On April 21, 2017, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible to purchase a QHP at full cost effective June 1, 2017.

Also on April 21, 2017, NYSOH issued a plan enrollment notice confirming that you and your spouse were enrolled in a full cost platinum-level QHP with an enrollment start date of January 1, 2017.

On June 12, 2017, you updated your application for financial assistance.

On June 13, 2017, NYSOH issued a notice stating that the income information in your application did not match what NYSOH received from state and federal data sources. You were directed to provide proof of household income by June 27, 2017.

Also on June 13, 2017, NYSOH issued a disenrollment notice stating that your platinum-level QHP would end on June 30, 2017.

On June 16, 2017, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible to enroll in the Essential Plan with a \$20.00 premium per month each, effective July 1, 2017. You and your spouse were subsequently enrolled in an Essential Plan with a plan start date of July 1, 2017.

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On July 18, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and closed at the end of the hearing

Findings of Fact

A review of the record supports the following findings of fact:

- 1) According to your NYSOH account and your testimony, you receive all of your notices from NYSOH by electronic mail.
- 2) You testified that you did not receive any electronic alerts notifying you of any notice in your NYSOH account stating that your and your spouse's eligibility was only conditional and that you needed to provide documentation to prove your household income.
- 3) There is no evidence in your account documenting that any email alert was sent to you regarding the need to submit documentation, or that the notice was later sent to you by regular mail.
- 4) Your NYSOH account indicates that on March 20, 2017 your application was systematically run and you were found no longer eligible for APTC as of May 1, 2017.
- 5) You testified that you did not know that you needed to submit documentation of your income until sometime in April 2017 when you received an invoice from your health plan stating you owed over \$3,000.00 in premiums going back to January 1, 2017. You testified that when you received this invoice, you called the plan and they told you to contact NYSOH.
- 6) You testified that the health plan required you to pay the full premium costs for the months of January 2017, February 2017, March 2017 and April 2017.
- 7) According to your NYSOH account, on April 19, 2017, you uploaded to your account a copy of your 2016 income tax return and, on June 15, 2017, you submitted a 3-month business profit and loss statement. These documents were verified on June 15, 2017 and your account was updated by NYSOH.
- 8) On June 15, 2017, you and your spouse were determined eligible for the Essential Plan effective July 1, 2017 and subsequently enrolled in a plan.

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- 9) You testified that, since you and your spouse's shared APTC was retroactively terminated back to January 1, 2017 and that your QHP required you to pay the full premium for coverage dating back to January 1, 2017, you are seeking reinstatement of APTC for the months of January 2017, February 2017, March 2017 and April 2017.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

Applicable Law and Regulations

Verification of Eligibility for Advance Payments of the Premium Tax Credit

APTC are generally available to a person who is eligible to enroll in a QHP and (1) expects to have a household income between 138% and 400% of the applicable federal poverty level (FPL), (2) expects to file a tax return and claim a personal exemption deduction for a person who meets the eligibility requirements to enroll in a QHP, and (3) is not otherwise eligible for minimum essential coverage except through the individual market (see 45 CFR § 155.305(f), 42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)).

An applicant is required to attest to their household's projected annual income for purposes of determining their eligibility for APTC (45 CFR § 155.320(c)(3)(ii)(B)). For all individual's whose household income is needed, NYSOH must request tax return data from the Secretary of the Treasury and data regarding Social Security benefits from the Commissioner of Social Security in order to confirm that the information the applicant is attesting to is accurate (45 CFR § 155.320(c)(1)(i); 45 CFR § 155.320(c)(3)(ii)(A)).

If income data is unavailable, or if an applicant's attestation is not reasonably compatible with the income data NYSOH obtains, NYSOH must request additional information from the applicant in order to resolve the inconsistency (45 CFR § 155.320 (c)(3)(iii), (iv)).

NYSOH must provide the applicant with notice of the inconsistency in their account and 90 days to provide satisfactory documentary evidence to resolve the inconsistency (45 CFR § 155.315 (f)(2)). If NYSOH remains unable to verify the attestation of the applicant, NYSOH must redetermine the applicant's eligibility based on the information available from the data sources unless the applicant demonstrates that they are unable to provide the required documentation (45 CFR § 155.315(f)(2), (g)).

Upon making an eligibility redetermination, NYSOH must notify the applicant and implement any changes in eligibility to APTC effective as of the first day of the month following the date of the notice (45 § 155.310(f), 45 CFR § 155.330(e), (f)(1)(i)).

Electronic Notices

Applicants may choose to receive notices and information from NYSOH by either electronic or regular mail. If the individual elects electronic communications, NYSOH must send an email or other electronic communication alerting the individual when a notice has been posted to his or her account and send a notice by regular mail within three business days if the electronic communication cannot be delivered (45 CFR § 155.230(d); 42 CFR § 435.918(b)(4), (5)).

Legal Analysis

The issue under review is whether NYSOH properly determined that you and your spouse's eligibility for advance payments of the premium tax credit ended effective May 1, 2017.

An individual requesting financial assistance to help pay for the cost of coverage provided through NYSOH is required to attest to his, her, or their household's projected annual income. For individuals seeking APTC, NYSOH must request income data from federal data sources in order to verify an individual's income attestation.

If NYSOH cannot verify an individual's attestation, it must provide the individual with notice of the inconsistency and provide a period of 90 days from the date notice is received to resolve the inconsistency.

In the eligibility determination issued on December 15, 2016, you were advised that you and your spouse's eligibility for APTC was only conditional, and that you needed to confirm your household's income before March 14, 2017.

The record reflects that NYSOH did not receive the requested income documentation before the deadline.

However, you testified that you elected to receive alerts regarding notices from NYSOH electronically. You credibly testified that you did not receive any electronic alert regarding the eligibility determination notice, which directed you that your eligibility was only conditional and that you needed to submit documentation to confirm your income.

There is also no evidence in your account documenting that any email alert was sent to you regarding the need to submit documentation, or that the notice was later sent to you by regular mail.

Therefore, it is concluded that NYSOH did not give you the proper notice that you and your spouse needed to submit documentation of your household income in order to confirm your eligibility for APTC.

The record reflects that the QHP required you to pay the full cost of your platinum-level premium for the months of January 2017, February 2017, March 2017 and April 2017. Further, according to your NYSOH account and your testimony, you and your spouse were determined eligible for the Essential Plan effective July 1, 2017. The record reflects that you and your spouse did not have any gaps in health coverage from January 1, 2017 to the present. You testified that you want your APTC to be reinstated for the months of January 2017, February 2017, March 2017 and April 2017.

Since you were not made aware of and did not receive proper notice that there was an inconsistency in your NYSOH account, the March 21, 2017 eligibility determination notice stating that you and your spouse were no longer eligible for APTC because you failed to submit income documentation is **RESCINDED**.

In addition, the March 21, 2017 plan enrollment notice is **MODIFIED** to state that you and your spouse were enrolled in a platinum-level QHP, effective January 1, 2017, with APTC of \$485.00 to be applied monthly as of that date.

As a result, the April 21, 2017 eligibility determination and plan enrollment notices are **RESCINDED**.

Also, June 13, 2017 disenrollment notice is **MODIFIED** to state your platinum-level QHP coverage with APTC of \$485.00 applied per month as of January 1, 2017 will end June 30, 2017.

Your case is **RETURNED** to NYSOH to reinstate your APTC for the months of January 2017 through June 2017, and to notify you accordingly.

Decision

The March 21, 2017 eligibility determination stating that you and your spouse are no longer eligible for APTC because you failed to submit documentation is **RESCINDED**.

The March 21, 2017 enrollment confirmation notice is **MODIFIED** to state that you and your spouse were enrolled in a platinum-level QHP, effective January 1, 2017, with APTC of \$485.00 to be applied monthly as of that date.

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY – Spanish: 1-877-662-4886).

The April 21, 2017 eligibility determination and plan enrollment notices are **RESCINDED**.

The April 21, 2017 plan enrollment notice is **MODIFIED** to state that you and your spouse were enrolled in a platinum-level QHP, effective January 1, 2017, with APTC of \$485.00 to be applied monthly as of that date.

The June 13, 2017 disenrollment notice is **MODIFIED** to state your platinum-level QHP coverage with APTC of \$485.00 applied per month as of January 1, 2017 will end June 30, 2017.

Your case is **RETURNED** to NYSOH to reinstate your APTC as of January 1 2017 and continuing for the months of February 2017, March 2017, April 2017, May 2017 and June 2017, and to notify you accordingly.

Effective Date of this Decision: August 23, 2017

How this Decision Affects Your Eligibility

NYSOH erred in terminating your and your spouse's APTC effective May 1, 2017, without giving proper notice of the need for you and your spouse to provide proof of household income.

Your and your spouse's case is being sent back to NYSOH to reinstate your APTC as of January 1 2017 and continuing for the months of February 2017, March 2017, April 2017, May 2017 and June 2017. NYSOH will notify you once this has been done.

Your and your spouse's current eligibility for and enrollment in the Essential Plan is not affected by this Decision and began July 1, 2017.

If You Disagree with this Decision (Appeal Rights)

This Decision is final unless you submit an appeal request to the Federal Marketplace or bring a lawsuit under New York Civil Practice Law and Rules, Article 78.

You may bring a lawsuit on any Appeals Unit decision in New York State court in accordance with Article 78 of the New York Civil Practice Law and Rules. This must be done within four months of the Decision Date, which appears on the first page of this Decision.

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY – Spanish: 1-877-662-4886).

Additionally, Appeals Unit decisions on issues involving eligibility for QHPs, advance premium tax credits, and cost-sharing reductions may be appealed to the Federal Marketplace. This must be done within 30 days of the Decision Date, which appears on the first page of this Decision (45 CFR § 155.520(c)).

If you have questions about appealing to the Federal Marketplace, you can contact them in any of the following ways:

- By calling the Customer Service Center at 1-800-318-2596
- By mail at:
Health Insurance Marketplace
Attn: Appeals
465 Industrial Blvd.
London, KY 40750-0061
- By fax: 1-877-369-0129

If you wish to be represented by an attorney in bringing an outside appeal and do not know how to go about getting one, you may contact legal resources available to you. You may, for example, contact the local County Bar Association, Legal Aid, or Legal Services.

If You Have Questions about this Decision (Customer Service Resources):

You can contact us in any of the following ways:

- By calling the Customer Service Center at 1-855-355-5777
- By mail at:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The March 21, 2017 eligibility determination stating that you and your spouse are no longer eligible for APTC because you failed to submit documentation is **RESCINDED**.

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY – Spanish: 1-877-662-4886).

The March 21, 2017 enrollment confirmation notice is MODIFIED to state that you and your spouse were enrolled in a platinum-level QHP, effective January 1, 2017, with APTC of \$485.00 to be applied monthly as of that date.

The April 21, 2017 eligibility determination and plan enrollment notices are RESCINDED.

The April 21, 2017 plan enrollment notice is MODIFIED to state that you and your spouse were enrolled in a platinum-level QHP, effective January 1, 2017, with APTC of \$485.00 to be applied monthly as of that date.

The June 13, 2017 disenrollment notice is MODIFIED to state your platinum-level QHP coverage with APTC of \$485.00 applied per month as of January 1, 2017 will end June 30, 2017.

Your case is RETURNED to NYSOH to reinstate your APTC as of January 1 2017 and continuing for the months of February 2017, March 2017, April 2017, May 2017 and June 2017, and to notify you accordingly.

NYSOH erred in terminating your and your spouse's APTC effective May 1, 2017, without giving proper notice of the need for you and your spouse to provide proof of household income.

Your and your spouse's case is being sent back to NYSOH to reinstate your APTC as of January 1 2017 and continuing for the months of February 2017, March 2017, April 2017, May 2017 and June 2017. NYSOH will notify you once this has been done.

Your and your spouse's current eligibility for and enrollment in the Essential Plan is not affected by this Decision and began July 1, 2017.

Legal Authority

We are issuing this determination in accordance with 45 CFR § 155.545.

A Copy of this Decision Has Been Provided To:



Getting Help in a Language Other than English

This is an important document. If you need help to understand it, please call 1-855-355-5777. We can give you an interpreter for free in the language you speak.

Español (Spanish)

Este es un documento importante. Si necesita ayuda para entenderlo, llame al 1-855-355-5777. Le proporcionaremos un intérprete sin ningún costo.

中文 (Traditional Chinese)

這是重要的文件。如果您需要獲得關於瞭解文件內容方面的協助，請致電 1-855-355-5777。我們可以為您免費提供您所使用語言的翻譯人員。

Kreyòl Ayisyen (Haitian Creole)

Sa a se yon dokiman ki enpòtan. Si ou bezwen èd pou konprann li, tanpri rele nimewo 1-855-355-5777. Nou kapab ba ou yon entèprèt gratis nan lang ou pale a.

中文 (Simplified Chinese)

这是一份重要的文件。如果您需要帮助理解此文件，请打电话至 1-855-355-5777。我们可以为您免费提供相应语种的口译服务。

Italiano (Italian)

Questo è un documento importante. Per qualsiasi chiarimento può chiamare il numero 1-855-355-5777. Possiamo metterle a disposizione un interprete nella sua lingua.

한국어 (Korean)

중요한 서류입니다. 이해하는 데 도움이 필요하시면 1-855-355-5777 번으로 연락해 주십시오. 귀하의 언어에 대한 무료 통역 서비스가 제공됩니다.

Русский (Russian)

Это важный документ. Если Вам нужна помощь для понимания этого документа, позвоните по телефону 1-855-355-5777. Мы можем бесплатно предоставить Вам переводчика Вашего языка.

العربية (Arabic)

هذه وثيقة مهمة. إذا كنت بحاجة إلى مساعدة لفهم محتواها، يُرجى الاتصال بالرقم 1-855-355-5777. يُمكننا توفير مترجم فوري لك باللغة التي تتحدثها مجانًا.

বাংলা (Bengali)

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Français (French)

Ceci est un document important. Si vous avez besoin d'aide pour en comprendre le contenu, appelez le 1-855-355-5777. Nous pouvons mettre gratuitement à votre disposition un interprète dans votre langue.

हिंदी (Hindi)

यह एक महत्वपूर्ण दस्तावेज़ है। अगर आपको इसे समझने में सहायता चाहिए, तो कृपया 1-855-355-5777 पर कॉल करें। हम आपकी भाषा बोलने वाला एक दुभाषिया निःशुल्क उपलब्ध करवा सकते हैं।

日本語 (Japanese)

これは重要な書類です。理解するために支援が必要な場合は、1-855-355-5777 にお電話ください。通訳を無料で提供いたします。

नेपाली (Nepali)

यो एउटा महत्वपूर्ण कागजात हो। यसलाई बुझ्न तपाईंलाई मद्दत चाहिन्छ भने, कृपया 1-855-355-5777 मा फोन गर्नुहोस्। हामीले तपाईंले बोल्ने भाषामा तपाईंलाई निःशुल्क दोभाषे उपलब्ध गराउन सक्छौं।

Polski (Polish)

To jest ważny dokument. W przypadku konieczności skorzystania z pomocy w celu zrozumienia jego treści należy zadzwonić pod numer 1-855-355-5777. Istnieje możliwość uzyskania bezpłatnej usługi tłumacza języka, którym się posługujesz.

Twi (Twi)

Krataa yi ye tow krataa a ho hia. Se wo hia eho nkyerekyeremu a, ye sre wo, fre 1-855-355-5777. y&b&tumi ama wo obi a okyerE kasa a woka no ase ama wo kwa a wontua hwee.

(Urdu) اردو

یہ ایک اہم دستاویز ہے۔ اگر آپ کو اسے سمجھنے کے لیے مدد کی ضرورت ہے تو براہ کرم 1-855-355-5777 پر کال کریں۔ ہم آپ کو آپ کی مادری زبان میں ایک مفت مترجم فراہم کر سکتے ہیں۔

Tiếng Việt (Vietnamese)

Đây là tài liệu quan trọng. Nếu quý vị cần trợ giúp để hiểu tài liệu này, vui lòng gọi 1-855-355-5777. Chúng tôi có thể cung cấp thông dịch viên miễn phí nói ngôn ngữ của quý vị.

שׂוֹדֵשׁ (Yiddish)

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY – Spanish: 1-877-662-4886).

דאס איז א וויכטיגער דאקומענט. אויב איר דארפט הילף עס צו פארשטיין, ביטע רופט 1-855-355-5777. מיר קענען אייך געבן א דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY – Spanish: 1-877-662-4886).